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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,460	08/13/1999	HAMAYUN MUJEEB	10360/031001	3785

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EXAMINER

DO, NHAT Q

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/374,460		MUJEEB ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Nhat Do		2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/08/1999.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-26, 30-45 and 47-57, 61-77, 79-89, 93, and 94 is/are rejected.
- 7) ☒ Claim(s) 15, 27-29, 46, 58-60, 78 and 90-92 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____    | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "third physical interface" in claims 17-19, 48-50, and 80-82 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-8, 10, 11, 14, 16, 17-19, 32-39, 41, 42, 45, 47-50, 64-71, 73, 74, 77, and 79-82 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,208,616 to

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Mahalingam et al.. Mahalingam et al. disclose a device with a first physical interface 18, and two second physical interfaces 20 (Fig. 1). Mahalingam et al. also disclose a software module in figure 3 to identify the first interface as a primary interface and the second interface as a secondary interface. Mahalingam et al. further disclose that when the primary interface fails, the traffic is switched through the secondary interface (Col. 4, line 34-38).

4. Regarding to claim 4-7, Mahalingam et al. further disclose that the failure can be driver or physical interface (Col. 8, line 1-4).

5. Regarding to claim 8, Mahalingam et al. further disclose that traffic is allowed to flow through a single network interface (Col. 7, line 55-57). Therefore, it is inherent that the secondary interface is in a passive mode prior to switching.

6. Regarding to claim 10, it is well known in the art that a NIC card processes data at physically level. Therefore, it is inherent that the interface supports a network layer interface.

7. Regarding to claims 11, 14, 16, Mahalingam et al. further disclose that two physical interfaces are identical (Fig. 1 and 2). Therefore, it is inherent that they support the same functions.

8. Regarding to claims 17-19, Mahalingam et al. further disclose that the device can have more than one secondary physical interface (Col. 6, line 50)

9. Regarding to claims 32-39, 41, 42, 45, 47-50, 64-71, 73, 74, 77, and 79-82 Manhalingan et al. further disclose that the device is controlled by MULTISPAN system using computer program (Col. 4, line 9-17). Therefore, it is inherent that there is a processor to execute a computer program to control the device.

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10. Claims 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,311,288 to Heeren et al.. Heeren et al. disclose a device with a primary physical interface and a secondary interface (Col. 10, line 10-25). When the secondary interface is active, the primary interface is tested whether it is available. If the primary is available, switching from the secondary interface to the primary interface is performed (Col. 11, line 9-13).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 9, 40, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahalingan et al.. Mahalingan et al. fail to disclose that the secondary interface communicate over a network prior to switching. However, it would have been obvious to a person having ordinary skill in the art by the time the invention was made to modify the device taught by Mahalingan et al. by letting the secondary interface communicates over the network in order to increase the efficiency of the device.

13. Claims 12, 13, 23-26, 30, 31, 43, 44, 54-57, 61-63, 72, 75-76, 78, 86-89, 93, 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 5,903,544 to Sakamoto et al.. Sakamoto et al. disclose a first ATM input physical interface 3a-1 and a second ATM physical interface 3a-(i+1) (Fig. 5) at an ATM router. Sakamoto et al. further that the information for identifying a primary and a secondary interface is set in the register 30 (Col. 6, line 55-56). Sakamoto et al. fail to disclose clearly that the primary interface is monitored and

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when a failure is detected, switch from the primary interface to the secondary interface.

However, based on what Sakamoto et al. taught: the redundant path is used at the time of occurrence of a defect (Col. 1, line 50-52), It would have been obvious to a person having ordinary skill in the art by the time the invention was made to add a monitor to the device taught Sakamoto et al. to detect the primary interface and when a failure is detected, switch to the secondary interface.

14. Regarding to claims 30, 31, Sakamoto et al. further disclose that the device can operate in a non-redundant or redundant mode (Col. 6, line 7-28). Therefore, it<sup>is</sup> inherent that the secondary interface is in a passive mode prior to switching when the device operates in the redundant mode and in an active mode prior to switching when the device operates in the non-redundant mode.

15. Regarding to claims 43, 44, 54-58, 61, 63, 86-89, 93, and 94, Sakamoto et al. fail to teach using a processor and a computer program to control the device. However, it would have been obvious to a person having ordinary skill in the art by the time the invention was made to use a processor and a computer program to control the device taught by Sakamoto et al. in order to increase the accuracy of the device.

16. Claims 51-53, and 83-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heeren et al.. As discussed in the rejection applied to claims 20-22, Heeren et al. fail to teach using a processor for processing a computer program to control the device. However, it would have been obvious to a person having ordinary skill in the art by the time the invention was made to use a processor for processing a computer program to control the device taught by Heeren et al. in order to increase the accuracy of the device.

***Allowable Subject Matter***

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17. Claims 15, 27-29, 46, 58-60, 78, and 90-92 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

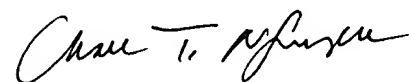
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhat Do whose telephone number is (703) 305-5743. The examiner can normally be reached on 8:30 AM - 5:30 PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-6743 for regular communications and 703-308-6743 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

ND

October 15, 2002



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
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